

REMARKS

In light of the following remarks, reconsideration and allowance of this application are requested.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 USC §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Claims 1, 4-7, 120 and 121 are in this application.

At paragraph 4 of the outstanding Office Action of November 7, 2003, the Examiner rejected claims 1, 4-7, 120 and 121 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Examiner stated that the term “substantially” in claims 1 and 120 is a relative term that renders the claims indefinite. Furthermore, the Examiner stated that he believes that “substantially” was used to protect the claims from infringement. However, this is not the reason for adding such a term to claims 1 and 120. The reason is that when, for instance, multiplexing is performed in a digital broadcast system, all the signals do not arrive at exactly the same time in order to be multiplexed. Also, all the data elements of this multiplexing system cannot be output at exactly the same time. In other words, in electrical devices there is always a slight minute delay (i.e., microseconds, nanoseconds, etc.) in transmitting or receiving multiple signals even though such minute delay is seldom noticeable to a user. The word “substantially” is used in these terms to indicate this very slight minute delay

in outputting the data elements would be acceptable, and still fall within the scope of the claims (see MPEP 2173.05(b), page 2100-197, section D). Applicants therefore respectfully request that the 112, second paragraph rejection be withdrawn.

At paragraph 7 of the outstanding Office Action of November 7, 2003, the Examiner rejected claims 1, 4-7, 120 and 121 under 35 U.S.C. 103(a) as being unpatentable over Kurihara (U.S. Patent No. 6,069,956) in view of Yanagidaira (U.S. Patent No. 5,367,269). Applicants respectfully traverse the rejection.

Independent claim 1, recites in part, “A data multiplexing device which multiplexes a plurality of data elements...comprising...**scramble key** generation means for generating a plurality of **scramble keys**...wherein each of said scramble keys is updated at predetermined intervals...” (Underlining and bold added for emphasis.)

The Examiner admits that Kurihara fails to teach “that different keys are used to scramble different parts of the program where the different parts are output substantially simultaneously.” The Examiner then relies on Yanagidaira to overcome the deficiencies of Kurihara. However, Yanagidaira’s disclosure does not overcome the deficiencies of Kurihara.

Yanagidaira does not teach or suggest scramble key generation means for generating a plurality of scramble keys, as does independent claim 1. In the present Office Action, the Examiner states “Yanagidaira et al. teaches scrambling audio data with a first oscillator and video data with a different oscillator.” However, Yanagidaira does not teach the concept of scrambling. Yanagidaira discloses the concept of jamming signals (column 7, lines 18-22), which is not the same as the concept of scrambling keys.

A jamming signal is a signal that carries a bit pattern to inform receiving data stations that they must not transmit data. Thus, rather than modifying an existing data, a jamming

signal is data generated independently. In contrast, scramble keys are strings of data used for encryption. Scramble keys consist of the data bits (useful information) and key bits that are combined together in order to prevent, for example, software piracy. By combining the useful data with dummy data (key bits) the signal that is sent to a user cannot be decoded by the user unless the user, for instance, has pre-paid for descrambling such software or receiving certain TV signals. In contrast, a jamming signal does not consist of either data bits or key bits. The jamming signal of Yanagidaira merely prevents the transmission of either audio or video data by a receiving unit. Therefore, independent claim 1 is believed to be distinguishable over the applied combination of Kurihara and Yanagidaira.

Withdrawal of the rejection of independent claim 1 under 35 U.S.C. §103(a) is therefore respectfully requested. For reasons similar to those described above with regard to independent claim 1, withdrawal of the rejection to independent claim 120 is respectfully requested.

Claims 4-7, and 121 are dependent from one of independent claims 1 and 120, and, due to such dependency are also distinguishable for the same reasons as the independent claims. Therefore, withdrawal of the rejection to claims 4-7 and 121 is respectfully requested.

Applicants respectfully request that the rejection of claims 1, 4-7, 120 and 121 under 35 U.S.C. §103(a) be withdrawn.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the applicants undersigned attorney and, in the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where in the reference or references, there is the bases for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith
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Respectfully submitted,

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